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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,567	09/29/2004	Tom Schoenherr	D4700-00391 (3201-376)	9580
8933	7590	06/16/2006	EXAMINER	
DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/509,567	Applicant(s) SCHOENHERR ET AL.	
	Examiner Khoa D. Huynh	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10, as presently understood and given the broadest reasonable interpretations, are rejected under 35 U.S.C. 102(b) as being anticipated by Davies (GB 166,908).

Regarding claim 1, the Davies reference discloses a shower arrangement (Fig. 1). The shower arrangement includes a fitting housing (8) inherently connected to a supply of water in order to provide water to the shower, an arced hollow section having a first leg (left pipe at 5) that lies partially in a plane and is coupled to the fitting housing so as to carry water. The arced hollow section also includes a second leg (right pipe at 5), a cross-member (the member connected to the legs 5 at element 12) that connects the top ends of the first and second legs, and a nozzle (6) affixed to the cross-member above a center of the showering area. As shown in Figure 1, the supply of water is inherently coupled through the first leg to the nozzle.

Regarding claim 2, the Davies reference discloses a shower arrangement (Fig. 1). The shower arrangement includes a wall (9) which borders the showering area (Fig. 1), a fitting housing (8) inherently connected to a supply of

water in order to provide water to the shower, an arced hollow section having a first leg (left pipe at 5) that lies partially in a plane and is coupled to the fitting housing so as to carry water. The arced hollow section also includes a second leg (right pipe at 5), a cross-member (the member connected to the legs 5 at element 12) that connects the top ends of the first and second legs, and a nozzle (6) coupled to the arced hollow section and directing the water into the showering area. As shown in Figure 1, the legs are permanently affixed to the wall (9) (page 2, lines 100-104 & Fig. 3).

Regarding claim 3, as schematically shown in Figure 1, the cross-member is guided over the center of the showering area spaced from the wall (9).

Regarding claims 4 and 7, the legs lie in the same plane (front view of Figure 1), wherein the cross member bends out of the plane of one of the leg.

Regarding claim 5, the legs lie in parallel planes (top view of Figure 1).

Regarding claim 6, the entire arced hollow section lies in a plane (front view of Figure 1).

Regarding claims 8 and 9, as schematically shown in Figure 1, both legs are straight and are provided with nozzles (at 7)

Regarding claim 10 (as best understood), the arced hollow section provides a water line coupling between the first and second legs, carrying water from the fitting housing to the nozzle (6).

Response to Amendment

3. Applicant's amendment, filed on 03/21/06, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

Response to Arguments

4. Applicant's arguments filed on 03/21/06 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

In response to applicant's argument that the Davies reference fails to teach "a shower arrangement wherein the arced hollow section permanently attached along the inward facing wall of the shower stall" (see Remarks section, pages 1-2), it is noted that such claimed subject matter is not recited in the rejected claims. Unless it is recited in the claims, limitations from the remarks are not read into the claims. Applicant, on the other hand, recites, in claim 2, that "the two legs are permanently affixed on the wall", and such limitation is met by Davies since Davies, as shown in Figure 3, discloses the first and second legs of the arced hollow section are permanently affixed to the wall (9) (page 2, lines 100-104).

In response to applicant's argument that the Davies reference fails to teach "a shower with a fitting housing containing hot/cold on/of control" (see Remarks section, page 2), it is noted that the recitation of "a fitting housing containing hot/cold on/of control" is not recited in the rejected claims. Unless it is recited in the claims, limitations from the remarks are not read into the claims. Nevertheless, for the sake of arguments, even if the fitting housing is defined to contain hot/cold on/of control, the Davies stop

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valve 8 could be construed as a fitting housing since it contains a hot or cold on or off control for controlling (on or off) the flow of (hot or cold) water into the shower.

In short, applicant argues that the Davies reference does not teach a shower arrangement as claimed wherein the water carrying legs are mounted on the wall. See remarks section, page 3. Again, the examiner disagrees. On the contrary, as stated in the above rejection, the Davies reference does disclose a shower arrangement wherein the water carrying legs (left and right pipe portions at 5) are mounted on the wall (9) as shown in Figs. 1 and 3. Therefore, the Davies reference does teach applicant's invention as claimed.

Conclusion

5. Applicant's amendment necessitated the revised grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Khoa D. Huynh
Primary Examiner
Art Unit 3751

HK
06/08/2006